



MINUTES OF THE REGULAR MEETING
OF THE PLANNING COMMISSION
CITY COMMISSION CHAMBERS, CITY HALL
THURSDAY, JULY 21, 2011 3:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, July 21, 2011, in the Commission Chambers at City Hall. Chairman Roland Stults called the meeting to order at 3:30 p.m. The following Commission members were present:

Roland Stults
Jo Ann Heim
Donald Lukich
Clell Coleman
Agnes Berry
Charles Townsend
James Argento

City staff that was present included Bill Wiley, Director; Mike Miller, Planner; Amelia Serrano, Administrative Assistant II, and Fred Morrison, City Attorney.

The meeting opened with an invocation given by Commissioner Agnes Berry and the Pledge of Allegiance to the Flag.

Bill Wiley, Director, informed the audience of the rules of participation and the need to sign the speaker's registry. Bill Wiley also informed Commissioners and the audience of the City Commission meeting dates tentatively scheduled.

Amelia Serrano swore in staff as well as anyone wishing to speak.

MINUTES OF PLANNING & ZONING COMMISSION MEETING FOR JUNE 16, 2011.

Commissioner Jo Ann Heim moved to APPROVE the minutes from the June 16, 2011 meeting. Commissioner Donald Lukich SECONDED the motion, which was PASSED by a unanimous voice vote of 7 to 0.

OLD BUSINESS:

1. PUBLIC HEARING CASE # 032-0-051911 - LAKE GRIFFIN LODGE – SMALL SCALE COMPREHENSIVE PLAN AMENDMENT

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FOR THE CITY OF LEESBURG, FLORIDA, CHANGING THE FUTURE LAND USE MAP DESIGNATION OF A CERTAIN PROPERTY CONTAINING APPROXIMATELY 5 ACRES FROM COUNTY URBAN TO CITY LOW DENSITY RESIDENTIAL FOR A PROPERTY LOCATED ALONG ICE CREAM ROAD, NORTH OF U.S. HIGHWAY 441, EAST OF BROOKS LANE AND ON THE SOUTH SIDE OF LAKE GRIFFIN – **(POSTPONED UNTIL THE AUGUST 18TH PLANNING COMMISSION MEETING**

2. **PUBLIC HEARING CASE # 030-1-051911 – LAKE GRIFFIN LODGE – REZONING**
AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 5 ACRES FROM COUNTY R-1 (RURAL RESIDENTIAL) TO CITY SPUD (SMALL PLANNED UNIT DEVELOPMENT) TO ALLOW FOR AN AGE RESTRICTED RECREATIONAL VEHICLE PARK FOR A PROPERTY LOCATED ALONG ICE CREAM ROAD, NORTH OF U.S. HIGHWAY 441, EAST OF BROOKS LANE AND ON THE SOUTH SIDE OF LAKE GRIFFIN – **(POSTPONED UNTIL THE AUGUST 18TH PLANNING COMMISSION MEETING)**

Commissioner Donald Lukich made a motion to POSTPONE case # 032-0-051911 – LAKE GRIFFIN LODGE – SMALL SCALE COMPREHENSIVE PLAN AMENDMENT and case # 030-1-051911 - REZONING. Commissioner Agnes Berry SECONDED the motion which, PASSED by a voice vote of 7 to 0.

NEW BUSINESS:

1. **PUBLIC HEARING CASE # 023-1-051911 – SOUTHPOINTE BAPTIST CHURCH – REZONING**
AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 40 ACRES FROM COUNTY CFD (COMMUNITY FACILITIES - PFD) TO CITY PUD (PLANNED UNIT DEVELOPMENT) TO ALLOW FOR A CHURCH AND OTHER CHURCH RELATED ACCESSORY USES FOR A PROPERTY LOCATED ON THE EAST SIDE OF U.S. 27, JUST SOUTH OF THE WINDSONG SUBDIVISION – **(CITY COMMISSION DATES - 1st READING ON AUGUST 8, 2011 AND A 2ND READING ON AUGUST 22, 2011)**

Bill Wiley entered the exhibits into the record and Mike Miller presented them. The items included the staff summary, departmental review summary, staff recommendations, planned unit development conditions, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, and site photos.

No substantive comments were received from the departments. There was one public response for approval received and no disapproval responses received.

Bill Wiley and the Planning & Zoning Division recommended the approval of the request for the following reasons:

1. The proposed PUD (Planned Unit Development) zoning district is compatible with adjacent properties. This request does not appear to create a detriment to the surrounding properties and would be consistent with the existing subdivision.
2. The proposed PUD (Planned Unit Development) zoning district is compatible with the proposed City future land use designation of Estate Density Residential.
3. The rezoning of the subject property is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6.

Action Requested:

1. Vote to approve the recommendation to rezone the subject property with the proposed PUD (Planned Unit Development) subject to the property receiving approval from the City Commission of an annexation under case number 024-4-051911, and a future land use designation of City Estate under case number 025-6-051911 and forward to the City Commission for consideration.

The following conditions were highlighted by Mr. Wiley due to be pertinent to this case. All other conditions are general language conditions.

3. LAND USES

The above-described property, containing approximately 40 acres, shall be used for PUD (Planned Unit Development) uses as limited herein, and pursuant to City of Leesburg development codes and standards for particular uses.

A. Permitted Uses

Uses shall be those listed for the PUD (Planned Unit Development) uses in the Land Development Code as permitted uses for a multi-purpose worship center including living unit/facilities with accessory uses for the approximate area as shown on the Conceptual Plan and as listed herein.

1) Multi-purpose Worship Center and Accessory Uses

Uses shall be those listed for the PUD (Planned Unit Development) uses in the Land Development Code as permitted uses for a church center uses including worship services and uses associated therewith; family-life center/gymnasium with meeting/educational rooms, private preschool/school facilities (K-8) with associated school uses, parsonage/caretaker's residence, temporary residence for visiting missionaries, children's day care, fitness center, classrooms, dining facilities, life center, conference and meeting space, social work and social services, charitable services, administrative offices, library, gift shop, thrift store, cafeteria, food service preparation and delivery, passive recreation, unenclosed active recreation facilities such as sport fields etc on the south half of the site, as well as, active recreation facilities such as gymnasium, pool etc. on the north half of the site where enclosed in a building, church events, festivals, and such other uses reasonably ancillary to the church use for the approximate area as shown on the Conceptual Plan.

2) Senior Living Facility Uses

The project shall have a gross density not to exceed 12 units per acre for senior living facilities. Assisted or congregate living shall be limited to 20 units (five individuals equals one unit) as provided by the code for adult living facilities

B. Uses Prohibited shall be as follows:

- 1) All uses not permitted by the PUD (Planned Unit Development)
- 2) Commercial uses not accessory to the primary worship center use
- 3) Public school uses

C. Area

The Impervious surface coverage for this site shall not exceed eighty (80) percent of the gross site area.

D. Open Space

A minimum of twenty (20) percent of the site shall be developed as open space, including retention areas, buffer, passive recreation areas and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.

5. DEVELOPMENT STANDARDS

- A. The minimum development standards shall be those required for the PUD district except as amended by these conditions and may limit the permitted uses based on site plan requirements.
- B. Maximum building height for residential structures shall not exceed two (2) stories or 25 feet adjacent to single family residential areas except that for each two (2) foot of additional setback from the required buffer area, an additional one (1) foot of height above two stories shall be permitted not to exceed three (3) stories or thirty-five (35) feet.
- C. A wildlife/archaeological management plan for future development of the project site shall be prepared based on the results of an environmental assessment of the site and any

environmental permit required from applicable governmental agencies. The management plan shall be submitted to the City as part of the preliminary plan application. The Permittee shall designate a responsible legal entity that shall implement and maintain the management plan.

9. TRANSPORTATION

- A. All future transportation improvements shall be based on a current traffic analysis and shall be contingent upon Site Plan approval for future development of the project site by City staff during the development review and permitting process.
- B. Vehicular access to the project site shall be provided by a minimum of two access points, one the south end of the property on US Highway 27 and the existing Windsong Oak Drive access. Actual locations and design of future access points shall be determined during the Site Plan review process.
- C. The Permittee shall provide all necessary improvements/signalization adjacent to the development for future development of the project site as required by FDOT, Lake County, the MPO and the City of Leesburg.
- D. The Permittee shall be responsible for obtaining all necessary FDOT, Lake County and City of Leesburg permits for future development of the project site and a copy of all permits shall be provided to the City of Leesburg prior to construction plan approval.
- E. A traffic/transportation study shall be submitted for future development of the project site prior to site plan approval for review and determination of any necessary access improvements, including any off site improvements required by FDOT, Lake County, the MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.
- F. At such time that traffic signals are warranted for future development of the project site at the intersections adjacent to the proposed project entrances, the Permittee shall pay their pro-rata share of the cost of the signal(s) as determined by City staff.

10. LANDSCAPING AND BUFFER REQUIREMENTS

- A. A twenty-five (25) foot wide vegetative landscaped buffer shall be required along boundaries of the development except for US Highway 27. The buffer shall retain existing healthy trees, shrubs and ground cover and shall include additional plantings where needed as provide in "C" below.
- B. In addition, development of the buffers shall include for future development of the project site a six (6) foot high decorative tan PVC fence installed along the property lines on the development as a visual buffer to adjacent residential properties (See Exhibit D).
- C. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances except as provided under these conditions:
 - 1) For each one hundred (100) linear feet, or fraction thereof of boundary, the following plants shall be provided in accordance with the planting standards and requirements of the Land Development Code.
 - a. Two (2) canopy trees
 - b. Two (2) ornamental trees
 - c. Thirty (30) shrubs
 - d. The remainder of the buffer area shall be landscaped with grass, groundcover, and/or other landscape treatment.
 - e. Existing vegetation in the required buffer shall be protected during construction.
 - 2) Existing vegetation in the required buffer shall be protected during any construction.
- D. Variations to the landscape requirements of the code may be approved by the Community Development Director as long as the intent of the PUD and the Landscaping Code are maintained.

Donald Lukich wanted to confirm that if an assisted living facility was added that the project would have to go through Planning and Zoning and Mr. Wiley said it would.

Roland Stults inquired about the 25 ft. buffer that would have to be erected between the Church property and the residential neighborhood. Mr. Wiley said there is a natural buffer along the back property line and the uses have been restricted to be a minimum distance from this portion of property.

Consequently, Donald Lukich made the statement that there are many trees on the property and is anything going to be done in order to try to preserve as many trees as possible. Mr. Wiley stated that the existing code will have to be followed and the preservation of all historic trees and protection of existing trees will be followed, but for the most part, this area has many pine trees on it. Mr. Lukich then questioned the buffering along the north side of Windsong as to whether or not that was a heavily buffered area as well - Mr. Wiley confirmed it was.

This was the end of the discussion and the voting then took place.

Commissioner Donald Lukich made a motion to APPROVE case # 023-1-051911 – SOUTHPOINTE BAPTIST CHURCH – REZONING. Commissioner Charles Townsend SECONDED the motion which, PASSED by a voice vote of 7-0.

2. **PUBLIC HEARING CASE # 041-1-072111 – 708 LEE STREET – REZONING**
AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY .38 OF AN ACRE FROM CITY R-2 (MEDIUM DENSITY RESIDENTIAL) TO CITY RP (RESIDENTIAL PROFESSIONAL) TO ALLOW FOR A MEDICAL OFFICE FOR A PROPERTY LOCATED ON THE SOUTHEAST CORNER OF LEE STREET AND W. OAK TERRACE DRIVE JUST NORTH OF W. NORTH BLVD. – (CITY COMMISSION DATES - 1ST READING ON AUGUST 8, 2011 AND A 2ND READING ON AUGUST 22, 2011)

Bill Wiley entered the exhibits into the record and Mike Miller presented them. The items included the staff summary, departmental review summary, staff recommendations, planned development conditions, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area (CRA) maps, and site photos.

No substantive comments were received from the departments. There was one public response for approval received and no public responses for disapproval received.

This is another case in which the old code was in place and has now been changed and in order to correct nonconforming properties this transition code was developed.

Bill Wiley and the Planning & Zoning Division recommended the approval of the request for the following reasons:

1. The proposed zoning district of City RP (Residential Professional) is compatible with all adjacent properties zoned City R-2 (Medium Density Residential) and City RP (Residential/Professional). The current use of the subject property is an existing, legally non-conforming professional office with adjacent parking. This is an area of transition from professional uses to less intense residential uses and the proposed zoning would provide for transition to the adjacent residential uses to the north and west. This request does not appear to create a detriment to the surrounding properties.
2. The proposed zoning district of City RP (Residential Professional) is compatible with all adjacent properties that have an existing future land use designation of City Low Density Residential, City Medium Density Residential and City High Density Residential.
3. The rezoning of the subject property is consistent with the City's Growth Management Plan, Future

Action Requested:

1. Vote to approve the recommendation to amend the zoning for the subject property from City R-2 (Medium Density Residential) to City RP (Residential Professional) as proposed by staff and forward to the City Commission for consideration.

Donald Lukich inquired as to if this was the same type of situation as the recent “South Street” case (Case # 038-1-061611 - Sampong Property – RZ). Bill Wiley said yes.

This was the end of the discussion and the voting then took place.

Commissioner Jo Ann Heim made a motion to APPROVE case # 041-1-072111 – 708 LEE STREET – REZONING. Commissioner Agnes Berry SECONDED the motion which, PASSED by a voice vote of 7 to 0.

3. PUBLIC HEARING CASE # 042-3-072111 – AUSTIN BUILDING RENOVATION – VARIANCE

A REQUEST OF THE PLANNING COMMISSION TO GRANT A VARIANCE TO SECTION 25-292 SUPPLEMENTAL DISTRICT REQUIREMENTS (19) RESIDENTIAL GARAGES OF THE CITY OF LEESBURG CODE OF ORDINANCES ON AN APPROXIMATELY .15 ACRE LOT TO ALLOW FOR THE ENCLOSURE OF A CARPORT IN THE CITY R-1 (LOW DENSITY RESIDENTIAL) ZONING DISTRICT FOR A PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF CREST AVENUE, WEST OF FLAMINGO DRIVE. - **(FINAL DECISION VOTED UPON BY THE PLANNING COMMISSION)**

Bill Wiley entered the exhibits into the record and Mike Miller presented them. The items included a medical doctor’s letter dates 06/29/2011, the staff summary, departmental review summary, staff recommendations, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment map, conceptual site plan, and site photos.

No substantive comments were received from the departments. There were four public responses for approval received and no responses for disapproval received.

Bill Wiley explained the steps in order to get a variance since the board doesn’t have too many that come before them. He stated there are several requirements that have to be met in order to get a variance and all requirements have to be met.

Bill Wiley and the Planning & Zoning Division recommended the approval of the request for the following reasons:

1. The request does meet the criteria set forth in Chapter 25 “Zoning”, Section 94 “Variances” of the City of Leesburg Code of Ordinances for the granting of a variance. The conditions are listed, with staff comments following in bold.
 - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. ***Such special conditions do exist. The request for the variance is related to the necessity to expand the existing residential home to allow for additional living space for the applicant’s son who has fallen victim to cancer, resulting in paralysis. The newly created living space would allow for a vital hospital bed and wheelchair for the applicant’s son.***

- b. The special conditions and circumstances do not result from the actions of the applicant, owner or any predecessor in title. ***A life threatening illness that the applicant's son has fallen victim to was not caused by any owner action.***
- c. The granting of this variance shall not confer on the applicant special privilege that is denied by the Zoning Ordinance to other lands, buildings, or structures in the same zoning district. ***Permitting a variance to allow the applicant to enclose their carport to add additional living space would not confer on the applicant a special privilege. Other properties within the same zoning district with similar situations could apply for a variance for relief.***
- d. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance and would work unnecessary and undue hardship on the applicant. ***Such a hardship has been adequately demonstrated by the applicant due to a life threatening illness of their son.***
- e. The requested variance is the minimum variance that shall make possible the reasonable use of the land, building, or structures. ***The applicant has demonstrated that a variance is needed to make possible the reasonable use of the structure with the minimum variance requested.***
- f. That the granting of the variance will be in harmony with the general intent and purpose of the Zoning Ordinance, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. ***The granting of the requested variance would appear to be in harmony with the general intent and purpose of the Zoning Ordinance for the granting of variances, and would not set a negative precedent in relation to similar properties since other properties in the area with similar lot sizes do not have garages.***

Finding(s) and conclusion:

1. A non-self created life threatening illness can create justification for a variance from the City of Leesburg code requirements.
2. Evidence of a hardship has been presented that demonstrates that a literal enforcement of this provision will result in an unnecessary and undue hardship to the applicant according to the criteria listed in Chapter 25-94 of the City of Leesburg Code of Ordinances. Therefore, staff recommends approval of the proposed variance as per the attached site plan.

Action Requested:

1. Vote to approve the variance for the subject property to allow the applicant to enclose their existing carport as recommended by staff.

Larry Mott with Mott's Concrete spoke in regards to this case. He explained how every option has been explored regarding the interior renovation, the carport enclosure is still necessary. He stated that the existing carport is going to be enclosed, however a portion of carport will remain. The expansion of the living area is not going outside of the existing footprint of the house.

James Argento went on the record to state that although he was wearing an orange shirt which was also being worn by the team hunter supporters it was merely coincidence and was not done so to show favoritism.

This was the end of the discussion and the voting then took place.

Commissioner James Argento made a motion to APPROVE Case # 042-3-072111 – AUSTIN BUILDING RENOVATION – VARIANCE. Commissioner Donald Lukich SECONDED the

motion which, PASSED by a voice vote of 7 to 0.

4. **PUBLIC HEARING CASE # 043-2-072111 – FAMILY FUN AT THE GLOW IN ONE – CONDITIONAL USE PERMIT**

REQUEST OF THE PLANNING COMMISSION TO GRANT A CONDITIONAL USE PERMIT FOR AN APPLICANT WHOSE TENANT SPACE IS APPROXIMATELY 10,000 SQUARE FOOT ON AN APPROXIMATELY 2.53 ACRE PARCEL IN THE CITY C-3 (HIGHWAY COMMERCIAL) ZONING DISTRICT TO ALLOW FOR INDOOR RECREATIONAL USES AT A PROPERTY LOCATED ON THE NORTH SIDE OF U.S. HIGHWAY 441, NEXT TO THE HOME DEPOT SHOPPING CENTER ADJACENT TO THE LAKES OF LEESBURG MOBILE HOME PARK - **(FINAL DECISION VOTED UPON BY THE PLANNING COMMISSION)**

Bill Wiley entered the exhibits into the record and Mike Miller presented them. The items included the staff summary, departmental review summary, staff recommendations, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area (CRA) map, site photos, and conceptual site plan.

No substantive comments were received from the departments. There were three public responses for approval received and no disapproval responses received.

Bill Wiley gave a brief history about this case. This case was an existing business located within the mall. The owners lost the lease and were forced to move. The owners found a new location, but were unaware that the City required certain things to be done prior to opening the business up to the public. It was discovered after the business was opened that the location needed a CUP (Conditional Use Permit) as well as improvements to the building for building safety and fire issues. All issues have been resolved and the last step was to get the approval of the CUP.

Bill Wiley and the Planning & Zoning Division recommended the approval of the request for the following reasons:

1. This request meets the criteria set forth in Section 25-141 “Conditional Uses” of the City of Leesburg Code of Ordinances for the granting of a conditional use permit for the requested use of indoor recreation-laser tag/miniature golf/pool/air hockey etc.
2. The Conditional Use for the subject property is compatible with the existing City future land use designation of General Commercial and consistent with the City’s adopted Growth Management Plan, Future Land Use Element, Goal 1, Objective 1.6.
3. Subject to the conditions listed below, the proposed Conditional Use is compatible with the adjacent zoning classifications of City C-3 (Highway Commercial) to the south, east and west and County RMRP (Mobile Home Rental Park) to the north and does not appear to be a detrimental impact on the surrounding properties.

with the following condition(s):

1. This conditional use permit is granted to the permittee to allow indoor recreation-laser tag/miniature golf/pool/air hockey and other accessory uses, in a C-3 (Highway Commercial) zoning district.
2. This conditional use permit must be properly executed by the applicant and filed with Leesburg Planning & Zoning Division within ninety days (90) from the date of approval or it shall become null and void and the Permittee must reapply for re-hearing of the request. Until the Permit has been properly executed by the Permittee, no building or fire permits will be issued.
3. The sale or consumption of alcohol on the premises shall be prohibited

4. No food shall be prepared on site, however, vending machines and prepackaged snacks shall be permitted.
5. The transfer of ownership or lease of any or all of the property described in these conditions shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions and agreements stated herein. Any change or deviation from conditions shown herein may be revised through procedures as described in the City of Leesburg Code of Ordinances, as amended.
6. The granting of this Conditional Use Permit does not exempt the applicant from other applicable regulations of the City of Leesburg such as building and fire safety and other governmental agencies and assessment of any required impact fees necessary for the proposed use.
7. Violation of any of the conditions of this permit may result in this permit becoming null and void for the approved use.
8. The applicant shall be subject to Section 12-19 Regulation of Public Nuisances of the City of Leesburg Code of Ordinances, as per attached Exhibit B.

Action Requested:

1. Vote to approve the Conditional Use for the subject property for indoor recreation-laser tag/miniature golf/pool/air hockey with related uses based on compliance with the stated conditions.

James Floyd, the business owner, was sworn in and spoke in regards to this case. He apologized for any misunderstanding and confusion this may have caused.

James Argento questioned the applicant on whether the idea of opening a concession type area would be a possibility. Mr. Floyd stated that he has no intentions of having any food preparation or cooking on site. However, he orders pizzas for parties.

Donald Lukich asked out of curiosity sake if there was space rented out for parties. James Floyd told him there was and he does birthday parties, outings, and after hours parties as well.

Charles Townsend stated he was glad to see businesses expanding to larger spaces.

Roland Stults asked if the public had any questions for Mr. Floyd. A question by an audience member was asked as to whether the facilities are handicap accessible and Mr. Floyd stated that the facility is in fact handicap accessible.

Bill Wiley thanked the applicant for his willingness to work with the city and correct the issues at hand although it was difficult.

This was the end of the discussion and the voting then took place.

Commissioner James Argento made a motion to APPROVE case # 043-2-072111 – FAMILY FUN AT THE GLOW IN ONE – CONDITIONAL USE PERMIT. Commissioner Jo Ann Heim SECONDED the motion which, PASSED by a voice vote of 7 to 0.

5. **PUBLIC HEARING CASE # 045-1-072111 – SUNNYSIDE SUBDIVISION – REZONING**
AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 32 ACRES FROM CITY R-3 (HIGH DENSITY RESIDENTIAL)

TO CITY PUD (PLANNED UNIT DEVELOPMENT) TO ALLOW FOR THE DEVELOPMENT OF 208 TOWNHOUSES AND CONDOMINIUMS FOR A PROPERTY LOCATED ON THE NORTH SIDE OF SUNNYSIDE DRIVE, JUST WEST OF FERN DRIVE – (CITY COMMISSION DATES - 1st READING ON AUGUST 8, 2011 AND A 2ND READING ON AUGUST 22, 2011)

Bill Wiley entered the exhibits into the record and Mike Miller presented them. The items included the staff summary, departmental review summary, staff recommendations, planned unit development conditions, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area (CRA) map, conceptual layout, and site photos.

This development was originally approved in 2006 under the provisions of the old zoning code. The zoning for the subject property is R-3 (High Density Residential). Under the old code, townhomes or condos were not permitted, consequently, the applicants could apply for a CUP (Conditional Use Permit) to allow for these types of uses. The CUP done for this property in 2006 was set to expire in 24 months. In 2008, an extension was given to the applicants via a new CUP with an expiration date of 36 months from the date of passage. The expiration date for the current CUP is approaching in August of 2011 and per the current Leesburg Code of Ordinances, a new CUP cannot be issued for this type of use. Therefore, the applicants would like to rezone the subject property to a PUD (Planned Unit Development) to allow for their type of desired use.

No substantive comments were received from the departments. There were two public responses for approval received and six disapproval responses received and basically they had to do with traffic or road conditions, drainage and water concerns, and environmental concerns about the gopher tortoises.

Bill Wiley and the Planning & Zoning Division recommended the approval of the request for the following reasons:

1. The proposed PUD (Planned Unit Development) is compatible with adjacent properties and there does not appear to be any detrimental impacts.
2. The proposed PUD (Planned Unit Development) is compatible with and does not appear to be detrimental to adjacent County and City land uses.
3. The proposed PUD (Planned Unit Development) is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6.

Action Requested:

1. Vote to approve the recommendation to rezone the subject property with the proposed PUD (Planned Unit Development) Conditions attached (Exhibit A) hereto, dated July 21, 2011. and forward to the City Commission for consideration.

The following conditions were highlighted by Mr. Wiley due to be pertinent to this case. All other conditions are general language conditions.

3. LAND USE

The above-described property, containing approximately 32 acres, shall be used for townhouses/condominium development, pursuant to City of Leesburg development codes and standards.

A. Residential Development

- 1) The project shall contain approximately 208 townhome/condominium residential units at a gross density not to exceed 8.0 units per acre.

- 2) The minimum development standards shall be those required for the PUD (Planned Unit Development) district except as amended by the requirements stated herein.
- 3) As part of the preliminary site plan approval process, city staff shall review final site design standards in accordance with the approved conceptual site plan.
- 4) Minimum distance between structures shall be 10 feet; measured from building wall to building wall and the roof overhang shall not exceed 40 percent of the distance between the building wall and the property line.
- 5) The following minimum setbacks shall be maintained:
Front setback – 20 feet;
Rear setback – 18 feet; and
Side setbacks – 0' feet for common walls, 5' feet other side
- 6) Corner lots shall have a minimum side yard setback of 20 feet from the public right-of-way.
- 7) Accessory structures shall have a minimum rear and side setback of 5 feet and single accessory structures that are not attached to the principal structure shall not occupy more than 30 percent of the required rear yard.
- 8) An attached screened enclosure (no solid roof) must maintain a minimum setback of five (5) feet from the side and rear property line.
- 9) Impervious surface coverage for shall not exceed 70 percent with open space of 30 percent. Townhouses dwellings shall not exceed 65 percent ISC.
- 10) City staff as part of the preliminary plan approval process shall approve final lot sizes and setbacks based on the general intent of the PUD for various type units such as town homes, zero lot line, common wall, etc.
- 11) Maximum building height shall not exceed three stories or 42 feet.
- 12) Permitted Uses:
 - a. Townhouses dwellings
 - b. Condominium dwellings
 - c. Accessory structures as permitted in the PUD zoning district.
 - d. Temporary modular sales center office not to exceed one year and a sales center office during construction and sales of new units.
 - e. All residential units shall be developed through a subdivision plat or condominium instruments.

4. SITE ACCESS

- A. Access to the property will be from Sunnyside Drive on the south and Fern Drive on the east. Any additional access shall be subject to the City of Leesburg PUD amendment and site plan application review process.

9. TRANSPORTATION IMPROVEMENTS

- A. Any transportation improvements or right-of-way that may be required shall be based on projected needs and shall be contingent upon site plan approval by City staff during the development review and permitting process.
- B. Vehicular access to the project site shall be provided from Sunnyside Drive on the south and Fern Drive on the east for both primary and emergency access. The accesses shall be a two lane divided boulevard type entrance road. Any other potential accesses such as to adjacent properties will be reviewed by the Development Review Committee during site plan process.

- C. The Permittee shall provide all necessary improvements/signalization within and adjacent to the development as required by Lake County, the MPO and City of Leesburg.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. The Permittee shall be responsible for obtaining all necessary Lake County permits and a copy of all permits shall be provided to the City of Leesburg prior to site plan approval.
- F. The City of Leesburg will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Permittee shall establish an appropriate legal entity that will be responsible to pay the cost and perform the services to maintain the roads and transportation improvements.
- G. A traffic/transportation study shall be submitted prior to site plan approval for review and determination of any necessary access improvements, including any off site improvements required by Lake County, the MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.

10. LANDSCAPING AND BUFFER REQUIREMENTS

- A. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances including;
 - 1) For each one hundred (100) linear feet, or fraction thereof, of boundary, the following plants shall be provided in accordance with the planting standards and requirements of the City of Leesburg Code of Ordinances, as amended.
 - a. Two (2) canopy trees
 - b. Two (2) ornamental trees
 - c. Thirty (30) shrubs
 - d. The remainder of the buffer area shall be landscaped with grass, groundcover, and/or other landscape treatment.
 - e. Existing vegetation in the required buffer shall be protected during construction.
- B. In addition, development of the required buffers as shown on the Conceptual Plan shall include an (8) foot high PVC fence with decorative posts and caps as seen on Exhibit D with landscape canopy trees installed along the property lines on the development as a visual buffer to adjacent single-family residential properties.
- C. Variations to the landscape requirements of the code may be approved by the Community Development Director as long as the intent of the PUD and the Landscaping Code are maintained including consideration of existing fencing on adjacent properties and existing natural vegetative buffers.

12. DEVELOPMENT PHASING

- A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. Changes to the Development Plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Development review process.
- B. Implementation of the project shall substantially commence within 48 months of approval of this Planned Development. In the event, the conditions of the PUD have not been substantially implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to another appropriate zoning classification.

13. DESIGN REQUIREMENTS

- A. All buildings shall utilize at least three of the following design features including garage vehicle

doors to provide visual relief along all elevations of the building. Designs may vary by individual units in a common building or by building groups. If design variations are by individual units, they may be repeated in the next building group. If designs are by building groups, every other building must have a different design elevation.

- 1) Dormers
 - 2) Gables
 - 3) Recessed or raised entries
 - 4) Covered porch entries
 - 5) Cupolas
 - 6) Pillars or decorative posts
 - 7) Bay window (minimum 12 inch projections)
 - 8) Eaves (minimum 6-inch projections)
 - 9) Front windows with arched glass tops and minimum 4-inch trim.
 - 10) Garage vehicle doors shall incorporate the following elements: raised decorative panels, decorative glass panels or panes, decorative hinges, etc.
 - 11) Front doors shall incorporate the following decorative elements: raised decorative panels, decorative glass panels or panes, decorative handles, etc.
- B. Exterior building materials contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
- 1) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
 - 2) At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a "cementitious" lap siding. (A "cementitious" lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option.)
 - 3) All textured stucco, provided there are unique design features such as recessed garages, tile or metal roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.
- C. Other similar design variations meeting the intent of this section may be approved by the Community Development Director.

Donald Lukich asked if this was more or less an upgrading of the zoning. Bill Wiley explained he was correct and it enhanced the project with current conditions. Mr. Lukich also questioned why this project was given 48 months to commence instead of the typical 36 months. Mr. Wiley explained that each project is looked at independently but basically due to the economy and size of the project the 48 months commencement period is now the norm for larger projects.

Roland Stults inquired as to whether or not the units would be rentals or single owners and whether someone can come in and buy 10 units and rent them out. Bill Wiley explained that there is nothing in the conditions that stops an investor from buying several units and renting them out, but they are intended on being sold as single family homes. Clell Coleman added that homes can be bought and rented out almost everywhere.

Charles Townsend asked if there was a minimum square foot requirement for each unit and Mr. Wiley stated there was not a minimum square footage requirement set for the units.

Mary Ludwig, from Attorney Leslie Campione's office representing the Burnsed Trust and Cliff Bridges, spoke for the applicants. She addressed the concerns of the surrounding property owners in regards to the protected animals, water, and traffic. She stated the appropriate departments and permits would be pulled. The protected animals would be handled properly. A traffic study will be done and there will be two entrances for the subdivision along with any other requirements needed based off of the traffic study. As far

as the water and drainage issues that the neighbors are concerned with, those issues will be handled correctly and the wetlands on the property will not be touched and will remain open.

Ralph Suggs, an adjacent property owner, expressed his distress with the traffic and water concerns. Mr. Suggs stated that he did his own type of traffic study and based off of the surrounding homes and the vacant lots there is an average of three cars per lot. If that stayed true, once the subdivision and surrounding vacant lots were built there would be an increase of between 400-600+ vehicles in that area. The roads are not in very good condition and would need upgrading in order to handle that type of demand. His other area of concern was the water retention for the area. Currently, there are issues with drainage and with the additional housing there will be less room for water drainage. He expressed his desire to see the subdivision have 100% of the water retained on their property and not passed down. After he spoke, Mr. Townsend asked if he was present for the previous meetings and he said he was present for the original meeting four years ago, but in the hospital for the meeting two years ago.

Frank Maloney, another adjacent property owner, expressed his concern regarding the buffering between his property and the subdivision's property. The 8 ft PVC fence would be three feet from his bedroom window and the height of the wall, trees, and/or buildings would make his solar paneling useless. He also stated in his opinion that the high density residential housing was not appropriate for the area due to all the surrounding property being single family lots or vacant, undeveloped single family lots. Along with the gopher tortoises, there are at least 4 other endangered animals he has made note of on the property. He made the comment that the property has not been kept up and due to that alone he has concerns with how this project will be handled once it is started and completed. He moved here in 2008 and the land was mowed and disked, which is illegal, and he has pictures two prove that, but since that time nothing has been done to maintain the property and it is all overgrown. While giving this example he there was a misunderstanding in what was being said and Mr. Morrison asked for clarification on whether or not the land was mowed or not mowed. Mr. Maloney explained that the property was mowed in 2008, but has not been done so since. Mr. Townsend then asked Mr. Maloney the same question as to whether or not he was present at the previous meetings. He stated he was not living here for the first meeting and had just purchased his home when the second meeting was held.

Miriam Taylor was the last adjacent homeowner to speak. She was also opposing the case. She made the comment that she spoke with the law enforcement agencies when the case was first heard and she was told that between Dixie Avenue and Tomato Hill Road that there were 93 accidents in 6 months. Her main concern was where would the water going to be coming from since water restrictions are in place. She is on a well and is concerned that the well will get depleted. Donald Lukich asked Bill Wiley if the city will be servicing this area and was told this would be in the city's jurisdiction. Mr. Lukich then confirmed that the subdivision would have to tie into the City services and he was advised that - yes that is true.

Mary Ludwig was called back up to address the concerns again if needed and she had nothing further to say. Bill Wiley further added that all the concerns are ones that will be dealt with once the process begins from development. The issues will have to met city code as well as other agency codes.

Clell Coleman and Bill Wiley spoke about the current use allowed on the property. Currently, the owners can build an apartment unit without making any changes to the zoning. This would allow 8 units per acre. Charles Townsend said that the use really has not changed. Roland Stults confirmed that this was allowed with what was already in place. Donald Lukich added that by rezoning the property for this use it is actually restricting it more. Miriam Taylor came back up to speak and questioned how rezoning the property would restrict it more. Fred Morrison explained that it was simple math divide 32 into 208 and you get 6 ½ instead of the 8 units per acre. Ms. Taylor then questioned if the only type of structure that can go on the property is residential or can clubhouses and recreation areas be built. Mr. Wiley explained that only residential buildings like single family homes, townhouses, or condos were permitted, nothing commercial.

James Argento wanted it put on the record that he lives in the general area of this proposed subdivision, but not close enough that it would be a conflict for him.

This was the end of the discussion and the voting then took place.

Commissioner Donald Lukich made a motion to APPROVE case # 045-1-072111 – SUNNYSIDE SUBDIVISION – REZONING. Commissioner Charles Townsend SECONDED the motion which, PASSED by a voice vote of 7 to 0.

Clell Coleman wanted to make sure that the public was reminded that this still needs to go before the City Commission August 8, 2011 and August 22, 2011. Please check the agendas though.

Discussion:

By the request of the Planning and Zoning Division, staff asked that the meeting time be changed from 3:30 pm to 4:30pm, due to the recent reduction in staff.

Commissioner Jo Ann Heim made a motion to APPROVE the time change for the Planning Commission meeting to go from 3:30pm to 4:30pm starting in August 2011 until further. Commissioner Roland Stults SECONDED the motion which, PASSED by a voice vote of 7 to 0.

Bill Wiley also announced that there would be a get-together on Friday, July 29, 2011 in honor of Yvette Brandt and Dan Miller.

The next scheduled meeting date is August 18, 2011.

The meeting adjourned at 4:55 p.m.

Roland Stults III, Chairperson

Jo Ann Heim, Vice Chairperson

Amelia Serrano, Administrative Assistant II